

PLANNING & ZONING COMMISSION
September 13, 2010 Meeting

Commission Members Present: Alan Gannuscio, Vincent Zimnoch, Marshall Brown,
Janet Ramsay and Alternate Jim Szepanski

Town Staff Present: Town Planning Coordinator and Assistant Zoning and Wetlands
Officer Jennifer Rodriguez, Town Engineer Dana Steele and
Town Planning Consultant Michael O'Leary

Chairman Gannuscio called the meeting to order at 7:05 pm.

Commission roll call was taken.

MINUTES:

Chairman Gannuscio referred to the August 9, 2010 meeting minutes and noted that he, Mr. Zimnoch, Mr. Brown, Mr. Scarfo and Mr. Szepanski were present at that meeting. He then asked the Commission members and staff for any comments or corrections. Mr. Steele suggested the following corrections:

- Page 5, Item 9, 3rd line should read "showed 0% impervious";
- Page 7, 2nd line should read "not consider the gravel surface to be impervious...";
- Page 10, 1st paragraph should read "Attorney Smith pointed out that the applicant had not provided an area map, topography, and lighting because...".

Mr. Gannuscio moved to approve the August 9, 2010 meeting minutes, as amended. Mr. Brown seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

PUBLIC HEARINGS:

- b. Public hearing on the site plan review application of Jin Hospitality, LLC for the property located at 4 Loten Drive.**

Chairman Gannuscio referred to a September 1, 2010 letter from George Johannesen, P.E. of Allied Engineering Assoc., LLC and read the letter as follows:

"We respectfully request that the Site Plan Application for Jin Hospitality, LLC regarding 4 Loten Drive be continued till October. We have submitted a Special Use Permit for this same property to be accepted during tonight's meeting. Our intent is to have both permits addressed during the October meeting."

Chairman Gannuscio moved to reschedule the public hearing for the site plan review application of Jin Hospitality, LLC for the property located at 4 Loten Drive and the public hearing for the Special Use Permit/Liquor Permit Application for the same property for October 12, 2010. Ms. Ramsay seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

- a. Public hearing on the site plan modification application of JSL Asphalt, LLC for the property located at 75 King Spring Road and the adjoining property at 71 King Spring Road.**

Chairman Gannuscio asked Mr. Brown to read the rules for conducting a public hearing. Mr. Brown then did so. Mr. Gannuscio noted that the legal notice had been published prior to the August 9, 2010 public hearing and that another legal notice had been published indicating that the public hearing had been continued to that evening.

Attorney Paul Smith addressed the Commission on behalf of the applicant and stated that also present that evening were:

- Mark Connor from JSL;
- Jeff Hitchings from JSL;
- Cory Garrow from Close, Jensen & Miller; and
- Cornelius Quagliaroli, the owner of the property.

He then distributed copies of the revised plan to the Commission members and staff.

Attorney Smith stated that JSL Asphalt would be purchasing approximately 2.5 acres from Mr. Quagliaroli and that they were going to merge the existing JSL property and the newly purchased property into one parcel. He went on to say that the merger would allow greater flexibility for storage of materials and would increase safety.

Attorney Smith noted the following questions from the previous meeting:

Merge or Not

The lots would be merged and they would file a Certificate of Merger prior to construction.

Drainage/Creating additional runoff into the area of the large drain pipe?

The applicant had changed the proposed material from gravel to crushed stone which would be more impervious. None of the runoff from the new area would work its way over to the area of concern.

Trailers

The trailers would be removed from the property.

Lighting

The applicant had shown the existing lighting on the property; no new lighting was being proposed.

Parking

The applicant had included a note on the plan indicating that they had 35 parking spaces for employees. Mr. Hitchings pointed out that they had six full-time employees at the site; the other employees reported directly to the various job sites. Attorney Smith noted that it was an existing parking area and that the applicant did not anticipate a large number of visitors to the site.

Attorney Smith stated that there were a number of other little items that had been raised at the last meeting, but that he believed that the applicant had since addressed them on the revised plan. He went on to say that, if they had not addressed something, Mr. Steele could let them know and they would add any necessary information to the plan.

Attorney Smith stated that the applicant was willing to work with the Town reasonably regarding the area around the drainage pipe discharge, although it had nothing directly to do with the application. Mr. Hitchings stated that, if there was any debris in the way, they would clean it up.

Chairman Gannuscio asked Mr. Steele if there was anything that had not been addressed. Mr. Steele replied that for the most part everything from his August 4, 2010 letter had been addressed. He then suggested that Items 2, 9 and 12 from his August 4, 2010 letter be conditions of approval.

Mr. Steele commented, with regard to the merger, that at the previous meeting there had been some discussion about when the merger should be done and what type of condition should be included in any approval. He went on to say that he had spoken to Ms. Rodriguez and that she was comfortable with having the Certificate of Merger submitted prior to the release of the bond. The discussion continued briefly and Mr. O'Leary suggested that the condition of approval be the submittal of the Certificate of Merger prior to issuance of any permits. The Commission members and staff all agreed with Mr. O'Leary's suggested condition regarding the merger.

Mr. Steele referred to Item 5 (parking) from his August 4, 2010 letter and stated that the applicant had added a note to the plan. He went on to say that the applicant's engineer had felt that there was a capacity of a maximum of 35 parking spaces, although they were not striped along the railroad tracks. Mr. Steele also noted that they did not meet the setback requirement; an existing condition existed where the pavement encroached over the property line.

Mr. Steele stated that he had visited the site regarding Item 6 (erosion) and that he had seen evidences of historical erosion from the site. He went on to say that the

applicant or the previous owner had made some effort to stabilize the area. He then noted that he had not seen any evidence of any recent erosion. Mr. Steele commented that they had discussed some work that could be done to improve the area, but that he did not feel that the site was currently contributing to the problem. He then stated that it would be reasonable to consider it a separate issue from the application; therefore he had not included Item 6 as a suggested condition.

Mr. Steele referred to Item 9 (Zoning Data Block) and stated that the applicant had proposed a crushed/broken stone pavement substance (stone of uniform size that would have a lot of voids throughout making it pervious). He went on to say that from a drainage standpoint it was an improvement. He then noted that the applicant had also provided additional drainage calculations. Mr. Steele stated that the Zoning Data Block showed Lot D as .8% impervious and that he did not disagree with the data block. He went on to say that, if they were going to be merging the two lots, they should show the Data Block as one. Mr. Steele then suggested a condition for Item 9 from his 8/4/10 letter to be a revised Zoning Data Block to reflect the merged parcel. Attorney Smith agreed to the suggested condition.

Mr. O'Leary referred to his August 6, 2010 memorandum and stated that all of the items contained in his memo had been addressed except for the last item regarding street trees. He noted that street trees were a requirement of the Regulations. Mr. O'Leary then suggested that there be a condition of approval for a 10 foot landscaped strip along the Town right-of-way with one street tree for every 50 feet of frontage.

Attorney Smith commented that the applicant could readily fulfill Mr. O'Leary's suggested condition, but that their concern was that it was a heavily traveled street with a lot of truck traffic. He went on to say that they wanted to maintain as much visibility as possible. Attorney Smith reiterated that it was a heavy industrial use and that the entire street was developed with industrial uses. He then commented that he was not sure that street trees would really add much to the area. He went on to say that the applicant was concerned with maintaining the sight line. He then asked if they could use a low ground cover/shrubbery. Mr. O'Leary reiterated that street trees were a requirement of the Regulations and that they would not interfere with the sight line.

Chairman Gannuscio verified that one tree for every 50 feet of frontage was required. Mr. O'Leary stated that that was correct and that the Regulations specified a canopy tree for every 50 feet.

Attorney Smith asked if the applicant would be required to put the street trees on the entire parcel. Mr. O'Leary replied that the entire merged parcel consisted of 300+

feet of frontage and that that would require six street trees. The applicant pointed out that there were a number of trees existing on the site. Mr. Steele agreed that there were some existing trees. Mr. O'Leary pointed out that the site plan showed no trees.

Attorney Smith stated that if the Commission were to require the street trees, the applicant would provide them.

Chairman Gannuscio noted that Mr. Szepanski had been seated for Ms. Ramsay at the previous meeting, but that Ms. Ramsay was present that evening. He then seated Mr. Szepanski for Mr. Scarfo for all of the evening's proceedings. Mr. Gannuscio then asked Ms. Ramsay if she had read the minutes from the previous meeting. Ms. Ramsay replied that she had.

Chairman Gannuscio asked Attorney Smith for any final comments. Attorney Smith stated that the applicant had no problem with the suggested conditions as proposed by Mr. Steele (Items 2, 9 and 12 from his letter). He went on to say that if the Commission wanted to add the six street tree requirement (Item 6 from Mr. O'Leary's memo) that they would be agreeable.

Chairman Gannuscio asked the Commission for any questions or comments. They had none.

Chairman Gannuscio asked for any public comments in support of the application. There were none.

Chairman Gannuscio asked for any public comments in opposition to the application. There were none.

Chairman Gannuscio noted that the application had been presented extensively that evening and at the previous meeting. He then asked the Commission members if they were ready to close the public hearing. The Commission members all agreed that they were ready to close the public hearing.

Chairman Gannuscio asked for a motion to close the public hearing. Mr. Zimnoch moved to close the public hearing on the site plan modification application of JSL Asphalt, LLC for the property located at 75 King Spring Road and the adjoining property at 71 King Spring Road. Mr. Szepanski seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Chairman Gannuscio stated that he agreed with Mr. O'Leary's suggested condition requiring 10 feet of landscaping along the Town right-of-way with one street tree for every 50 feet of frontage. He then asked the Commission members if anyone disagreed with that suggested condition. The Commission members all agreed with Mr. O'Leary's suggested condition.

Chairman Gannuscio asked for a motion regarding the site plan application of JSL Asphalt, LLC. Mr. Zimnoch moved to approve the site plan of JSL Asphalt, LLC for the property located at 75 King Spring Road and the adjoining property at 71 King Spring Road with the following conditions:

- **Item 2 from Mr. Steele's August 4, 2010 letter modified to include the submittal of a Certificate of Merger prior to the issuance of any permits;**
 - **Item 9 from Mr. Steele's August 4, 2010 letter modified to include modification of the Zoning Data Block to contain calculations for the merged parcels;**
 - **Item 12 from Mr. Steele's August 4, 2010 letter, a cash erosion bond in the amount of \$2,500 be provided prior to the start of construction; and**
 - **a 10 foot landscape buffer along the Town right-of-way with one street tree planted for every 50 feet of frontage for a total of six trees to be provided.**
- Ms. Ramsay seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.**

REVIEWS:

- a. Continued review of the site plan modification application of Dairy Cream International, Inc. for the property located at 359 Ella T. Grasso Turnpike.**

Attorney Paul Smith addressed the Commission on behalf of the applicant and stated that they had prepared a revised plan which he then distributed to the Commission members and staff. He noted that the review had been continued from the Commission's August meeting. Attorney Smith stated that the applicant had proposed a 12'x26' addition to an existing concrete block building.

Attorney Smith stated that the following changes had been made to the plan:

- the 10'x10' refrigerator storage unit had been relocated so that it was no longer in the side yard line;
- they had matched up the elevation on the plan so that the site plan showed the proposed concrete walk in the front and on the side;
- the concrete sidewalk was added within the Route 75 area in front;

Attorney Smith noted that the Commission had indicated at the previous meeting that the sidewalk could be deferred. He then stated that the applicant would request that the sidewalk be deferred.

- a live seal was provided on the plan;
- an area map had been provided;
- topographic benchmarks had been provided; and
- the building color had been provided.

Attorney Smith stated that the building was currently a cream colored stucco with olive trim and that they were going to keep that same color scheme; simply repaint with the same colors.

Attorney Smith stated that signage had not been included; the applicant would be submitting that separately at a later date. He went on to say that they had looked at the issue of ingress and egress with the neighbor next door and that there was no easement. He then noted that the applicant had no intention of giving any easement. Attorney Smith commented that if the neighbor was using the dirt drive it was not during the applicant's hours of operation. He then pointed out that the applicant did not want to get into a dispute with their neighbor over the issue.

Attorney Smith stated that at the previous meeting there had been a question about whether to include a grease trap. He then explained that the applicant's current menu consisted of ice cream products, soda and hotdogs. He went on to say that they were not proposing any further food products that would require a grill or fryer nor were they planning on doing so in the future.

Attorney Smith referred to the issue of landscaping and pointed out that it was a fairly well built out site and that the applicant was not proposing any significant extension or change in use of the property. He went on to say that they were not proposing any additional landscaping. Attorney Smith pointed out that it was an intense use of the site from mid-April through early-October.

Attorney Smith stated that the purpose of the site plan modification was to make the building look better and to improve the safety of their customers who currently formed a line in the parking lot.

Chairman Gannuscio asked Mr. Steele if he had just seen the revised plan for the first time that day. Mr. Steele stated that he had met with the applicant's engineer, Len Norton, the previous week and that they had gone over Mr. Steele's comments. He went on to say that after that meeting he had had some idea of where the applicant

was headed, but that he had just received the actual revised plan earlier that day. Mr. Steele noted that he had gone through the plan and that he was prepared to provide some comments.

Mr. Steele referred to his letter dated August 3, 2010 which he had submitted at the previous meeting. He went on to say that most of the items contained in that letter had been addressed in the revised plan.

Mr. Steele referred to Item 4 from his letter regarding the encroaching parking spaces and stated that the parking calculations had been added to the plan indicating that seven spaces were required based upon the size of the building. He then asked Attorney Smith if he had a sense of how many spaces were actually needed. Attorney Smith replied that they did not run out of parking spaces, but that they definitely required more than seven spaces; around 30 spaces were probably required.

Attorney Smith pointed out that the site had existed for a long time in its current state and that they were not asking for the Commission's approval of the encroachment onto the abutting property. He went on to say that the applicant did not feel as though they needed those spaces to comply with the Regulations, but that they did exist. He then commented that it was similar to the access by the neighbor. Mr. Szepanski pointed out that the access by the neighbor could be a safety issue. Attorney Smith reiterated that the applicant had not legally provided an access. He went on to say that they had never had a problem with it in the past and that they did not want to start a neighborhood dispute over it. The discussion regarding the neighbor's access continued briefly.

Mr. Steele stated that the following nonconforming features existed on the site:

- the building encroached in the side yard;
- the shed was located in the side yard; and
- the dumpsters were shown over the property line.

Mr. Steele commented that he was not sure if the shed in the side yard was actually nonconforming. Ms. Rodriguez stated that the shed was allowed and was not nonconforming. Mr. Steele stated that the applicant had more parking spaces than were needed and, therefore, could do some things to reduce the nonconformities.

Mr. Steele referred to Item 6 from his letter regarding landscaping and pointed out that the Commission could require the applicant to remove some pavement and add landscaping. He then reiterated that the applicant had enough parking to do so. Mr. Steele asked Attorney Smith if the parking spaces were actually striped. Attorney Smith replied that they were striped. Mr. Steele pointed out that the pavement

extended beyond the parking spaces and that the area in the northeast corner of the lot was not being used for anything. He then suggested that there may be an opportunity for some landscaping in that area.

Mr. Steele stated that they had discussed a grease trap at the previous meeting and that he had suggested that the applicant supply a revised floor plan which did not show the fryer and griddle. He then pointed out that it would ultimately be the Water Pollution Control Authority's (WPCA) responsibility to determine whether an exterior separator was required or an internal grease trap. Mr. Steele suggested that the following condition be included in any approval regarding the application:

“A revised floor plan and a grease trap shall be subject to approval by the Water Pollution Control Authority (WPCA) prior to issuance of building permits.”

Mr. Steele referred to Item 11 of his letter regarding the elevations. He then commented that it looked like it was going to be a nice improvement to the site, but that the elevation really did not depict what it was going to look like (no colors or materials were shown). Mr. Steele stated that he would like clarification on the following items:

- verify whether the ramps and stairs were going to meet codes; and
- what elevation the platform was going to be at (no proposed spot grades were shown on the plan).

Mr. Steele reiterated that a little more detail regarding the vertical grades of the landing around the building and addition were needed.

Mr. Steele referred to Item 13 of his letter regarding the parking that was right up against the building with no landscaping in between the building and parking area. He went on to say that the plan did show some wheel stops right up against the proposed platform and that they were not going to do any good. He then stated that those wheel stops needed to be moved back into the parking spaces about three feet in order to protect the building.

Mr. Steele stated that the floor plan showed stairs on both the right and left side of the proposed platform in the front of the building with a walkway and a ramp on the north side of the addition. He then pointed out that the handicap parking space was on the opposite side. He went on to say that the handicap parking space should be moved and that the Building Department could probably offer the applicant some guidance on where the handicap space should be moved to. Mr. Steele also pointed out that a handicap sign should be placed at the handicap parking space as well (there was no indication on the plan that there was an existing sign).

Attorney Smith stated that the applicant would resubmit the architecturals removing the fryer and griddle. He went on to say, with regard to the encroachments and parking area, that the applicant wanted to keep as much parking as possible. He then stated that if the Commission wanted them they could relocate the dumpsters. Attorney Smith referred to the area in the northern corner of the lot and stated that they could do some additional landscaping in that area. He went on to say that the applicant would be extremely reticent to cutting up pavement in order to install landscaping. He then stated that the applicant could move the curb stops or install bollards instead. Mr. Steele commented that that would be okay. Attorney Smith stated that the applicant would also move the handicap parking space. Mr. Steele stated that the site plan should be revised to show the new location of the handicap parking space. Attorney Smith stated that they would also show more details for the stairs and ramps. Mr. Steele stated that he wanted to know the elevation/grade of the platform. Attorney Smith asked if they could deal with it as a condition of approval. Mr. Steele replied that they could. Attorney Smith then stated that the applicant would be happy to provide the elevation/grade of the platform for Mr. Steele's approval.

Mr. O'Leary referred to his August 4, 2010 memorandum and noted that some of the items had been addressed and some had not. He then summarized his comments as follows:

1. Variance – Mr. O'Leary stated that he had asked that the language of the variance that had been granted be included on the plans.
Attorney Smith stated that he had provided copies of the Variance Certificate to the Commission at the previous meeting. He went on to say that the applicant would be happy to add the Variance language to the plan as a condition of approval.
2. Zoning Data Table/Cooler Issues – Mr. O'Leary stated that it had been addressed.
3. Parking Calculation – Mr. O'Leary stated that it had been addressed.
4. Site Plan Requirements – Mr. O'Leary stated that there were a number of items that were required upon the submission of the application, but that they had not all be provided. He went on to say that the area map had since be provided, but that everything else was up to the Commission's interpretation.
- 5/6. Proposed Building Elevation – Mr. O'Leary commented that he did not think that the elevation provided was really what they would ultimately see upon completion of the project. He went on to say that they needed to know the look of the building (the materials, colors, etc). Mr. O'Leary also pointed out that there were signs shown on the plan. Attorney Smith stated that they were not asking for any signage approval. He went on to say that what had been submitted was

what they would see in terms of the layout of the front. They were going to use the same color scheme as the what was currently being used for the existing building.

Mr. O'Leary stated that the Commission would really have to either table the review and get the information resubmitted to them or spend some time deleting certain information (signs, etc.) from what was currently before them.

7. Inconsistencies between the submitted floor plan and the site plan – Mr. O'Leary stated that they needed more detailed information for the Building Official.
- 8a. Dimensions of the drive aisles – Mr. O'Leary stated that they had been submitted.
- 8b. Lighting – Mr. O'Leary clarified that no additional lighting was being proposed. Attorney Smith stated that that was correct.
- 8c. Landscaping – Mr. O'Leary referred to Section 701.D and read the following:
“Any change in an existing use, or an intensification of an existing use, that requires a Site Plan Review application, will require that the site design standards of landscaping and buffering, as set forth below, be proportionally brought up to the existing standards as determined by the Commission.”
Mr. O'Leary pointed out that the Plan of Conservation and Development also talked about that issue. He then recommended that Section 701.D was applicable for the application and that there was excess pavement throughout the site. Mr. O'Leary stated that there were several opportunities for street trees and that pavement could be removed to allow for landscaped islands along with the planting of street trees. He then commented that he would leave Item 8c. to the discretion of the Commission.
- 8d. Sidewalks – Mr. O'Leary stated that the sidewalk should be shown in detail on the plans and that the deferral of the sidewalk should be place in the Land Records.

Mr. O'Leary commented that he agreed with Attorney Smith in that the neighbor's access on the property was out of the applicant's control. He went on to say, with regard to the parking that was encroaching over the property line, that the applicant was essentially asking the Commission to approve it. Mr. O'Leary stated that it should either be removed or it should be indicated that it is there by legal rights. Attorney Smith commented that he did not think that he was asking the Commission to approve it, but that he would be happy to add a note on the plan regarding the encroachment worded however the Commission wanted.

Attorney Smith referred to Mr. O'Leary's first comment that the architectural still did not match the site plan and stated that the applicant would correct that if that was what the Commission wanted.

Attorney Smith commented that he would like the Commission to look at the proposal as a 300 square foot addition to a building which was used as a seasonal use. He went on to say that the applicant would be very reluctant to lose any parking. Attorney Smith stated that they would have to talk with their engineer about the street trees to see if it was doable. He then referred to the Tail Winds site on Old County Road and pointed out that that seasonal use was not paved and that the level of requirements for that site seemed low. Attorney Smith stated that they would be happy to look at whether they could do trees in the front, but that they did not want to create landscaped islands in the parking lot, because they would not want to lose any parking. He then commented that they would be willing to have a dialog with the Commission about it.

Chairman Gannuscio asked Ms. Rodriguez for any comments or questions. Ms. Rodriguez stated that Tail Winds had been required to adhere to setbacks as well as install sidewalks and trees.

The two gentlemen who were present for the informal discussion regarding a home occupation at 60 Spring Street interrupted and stated that they had to leave and would have to conduct their informal discussion with the Commission at another time. Chairman Gannuscio told them that the Commission's next meeting was going to be held on October 12, 2010.

Chairman Gannuscio commented that his thought was that the Commission continue the review to the October meeting, because there was still a lot missing. He then asked the Commission members if they wanted to vote on the application that evening or not. Mr. Zimnoch replied that he agreed that there was still a lot of information missing. Mr. Brown pointed out that at the previous meeting they had requested a copy of the applicant's menu, but that they had not received one. He went on to say that he felt that it would be a good idea to include the menu in the application file. Ms. Ramsay and Mr. Szepanski both stated that they were not ready to vote on the application that evening.

Chairman Gannuscio referred to the landscaping on the site and asked Mr. Steele what area he had been talking about when he had mentioned that the area to the north could be landscaped. Mr. Steele pointed out on the map the northern corner of the pavement along the front of the site and along the northern side and stated that it was not really used; therefore it could be used for landscaping. He went on to say that there was also a lot of extra space in the drive aisle. Attorney Smith stated that the applicant would be willing to take a look at it. Mr. O'Leary and Mr. Zimnoch both suggested that they look to add the landscaping in the front of the site. Mr. O'Leary

then suggested that they could add landscaped islands on either side of the driveway without losing any parking spaces. Attorney Smith stated that they would be happy to take a look at it.

The discussion continued briefly and Attorney Smith stated that the applicant would provide additional information on the elevations, interior plan, color of the building exterior, and the menu. Mr. Zimnoch reminded Attorney Smith about the issue of the encroaching parking spaces. Attorney Smith stated that they would add a note to the plan. Mr. Steele pointed out that the aisle width was not adequate in the back of the site where the encroaching parking spaces were located. Attorney Smith stated that they could just eliminate those three or four parking spaces on the north side.

Chairman Gannuscio noted that they had opened the review on August 9, 2010 and that at the October meeting they would be at 64 days. Attorney Smith stated that the applicant would grant the Commission the extension just in case it was needed.

Chairman Gannuscio moved to continue the site plan modification application of Dairy Cream International, Inc. for the property located at 359 Ella T. Grasso Turnpike to October 12, 2010. Ms. Ramsay seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

ACTION ON CLOSED PUBLIC HEARING ITEMS:

There were none.

OLD BUSINESS:

a. Discussion with Commission and Staff

Chairman Gannuscio asked the Recording Secretary to carry the item over to the October meeting with a possible discussion of a special meeting.

NEW BUSINESS:

a. Public Input

There was none

b. Receive New Applications

- i. Application of Charles J. Murkowicz to abandon a nonconforming parking use located at 159 Old County Road and revert it to pasture.**

Chairman Gannuscio asked for a motion to add the application of Charles J. Murkowicz to the evening's agenda for discussion that evening. Ms. Ramsay moved to accept the application of Charles J. Murkowicz to abandon a nonconforming parking use located at 159 Old County Road and revert it to pasture and to discuss it that evening. Mr. Zimnoch seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Charles Murkowicz and Mary Jane Parrier (Mr. Murkowicz's niece) were both present.

Ms. Parrier addressed the Commission and stated that she had helped Mr. Murkowicz to get the application and that her sister had helped him to complete the application with Ms. Rodriguez' guidance. She went on to say that Ms. Rodriguez had pointed out that the asphalt items on the property needed to be removed. Ms. Parrier stated that Mr. Murkowicz had approached the gentleman who plants corn on his property about removing the items which he had said that he would do once he was finished with his crop. She then reiterated that Mr. Murkowicz would like to return the land to pasture.

Mr. Murkowicz stated that he had rented the land to the Parking Company of America and that they had gone bankrupt on January 1, 2010. He went on to say that the new owner of that company was not interested in renting the property. He noted that the taxes on the property were over \$900 each month and that he was a retired, disabled veteran and could not afford to pay such high taxes without receiving any income from the property.

Mr. Murkowicz commented that he could not rent the land to anyone else, because there was a ravine on one side and the other side was landlocked.

Mr. Steele asked Mr. Murkowicz if his intention was to remove the pavement from the property. Mr. Murkowicz replied that as soon as the contractor had time he would remove the pavement and the poles. Mr. Steele then asked if they were going to put topsoil down. Mr. Murkowicz replied that there was plenty of topsoil under the pavement. Mr. Steele noted that typically before putting pavement down the topsoil would be removed. Mr. Murkowicz stated that the topsoil had never been stripped. Ms. Parrier stated that once the pavement was removed they

would put some topsoil down if it was needed. Mr. Steele then asked how the contractor was going to get into the site. Mr. Murkowicz replied that he would use a bulldozer.

Mr. Steele asked if there were going to be any erosion controls put in place. Ms. Parrier explained that they had been to the Inland Wetlands Commission several times, because there was a serious erosion/wetlands issue. She went on to say that it was a Town issue and that the erosion kept filling in Mr. Murkowicz's back pond.

Mr. Steele asked what the use of the land would be. Ms. Parrier replied that they were going to use the land to plant corn. Mr. Murkowicz replied that he was not sure what the land would be used for; he rented most of his land to someone else who actually planted it. Ms. Parrier pointed out that they had usually planted corn with rye as the winter crop. Mr. Murkowicz noted that they would put a cover crop on the land this winter.

Mr. Steele asked if they had a survey of the property. Mr. Murkowicz replied that he did. Mr. Steele pointed out that the sketch that had been submitted showed a fence. Mr. Murkowicz explained that the fence had been used to keep the animals in. Mr. Steele asked how the Town would be able to tell if the items were removed. He then asked if the fence was the property line. Mr. Murkowicz replied that it was.

Mr. Nowak, the gentleman who rented land from Mr. Murkowicz, addressed the Commission and stated that he would remove the items by noon the following day.

The discussion continued briefly and Ms. Ramsay asked if it could be deferred to Office Staff. Chairman Gannuscio asked if there should be some kind of sketch or narrative indicating what was being disturbed. Mr. Steele reiterated that there was no survey; they were just going by the existing fences to define the property lines. He then suggested that maybe a review of GIS information could be used. Chairman Gannuscio then commented that if a survey was on record somewhere they could refer to that since more detail was needed. Ms. Rodriguez pointed out that Pool Table Magic was right behind the site in question and that she would be happy to help out.

Ms. Rodriguez stated that according to the Town Attorney that evening's meeting would be about the abandonment and not about approving a site plan. She explained that the Assessor was the one requiring the removal of the pavement

and poles. Mr. Steele asked Ms. Rodriguez if her office required a permit to remove pavement. Ms. Rodriguez replied that they did not. The discussion continued and Mr. O'Leary commented that they were going in the right direction and that the parking abandonment was a good thing. He then stated that he agreed with Ms. Rodriguez in that they only needed to make sure that there was a clear abandonment of the use and then the Commission would be done provided the Town Attorney prepared the necessary language.

The discussion continued and Chairman Gannuscio suggested that a possible solution would be for the Commission to approve the application to abandon the parking use and revert the property to pasture with the condition that written confirmation of the abandonment be received with the cooperation of the Town Attorney assisting the applicant in preparing the necessary documents to be filed on the land records. He went on to say that the lease still appeared in the land records and should be removed. Mr. Murkowicz stated that the lease had expired and shouldn't still appear on the land records. Mr. O'Leary asked if there had been an expiration date on the lease. Mr. Murkowicz stated that August, 2009 was the expiration date of the lease. Ms. Parrier stated that they had a letter from the parking company stating the expiration date. Mr. O'Leary stated that that letter should be filed with the land records. Ms. Parrier stated that they had sent a letter to the First Selectman stating that Mr. Murkowicz did not ever want to lease the land for parking in the future.

Chairman Gannuscio moved to approve the application of Charles J. Murkowicz to abandon a nonconforming parking use located at 159 Old Count Road and revert it to pasture or agricultural use pending the submission of a formal written abandonment of that use along with written documentation/evidence showing the expiration of the lease and the intent to abandon that parking use reviewed by and agreed to by the Town Attorney and recorded on the land records. Ms. Ramsay seconded the motion. Mr. Szepanski asked if they needed to include the removal of the blacktop and poles. Chairman Gannuscio stated that the Commission was only approving the abandonment. He went on to say that the Tax Assessor was the one concerned with the removal of those items. He also noted that any other actions on the land would be subject to the review and approval of Wetlands and Engineering. All were in favor. The vote was 5 – 0, the motion was approved.

ii. Zone change application of Wilson M. Alford, Jr., P.E. & L.S. for the property located at 288 North Street.

It was noted that Ms. Rodriguez was the only person who had received the application; staff, Commission members and the Recording Secretary had not received the application.

Laurie and Robert Nowak, owners of the property in question which they leased to the Ayotte Brothers, were present. Ms. Nowak stated that until September 8, 2010 they were unaware that an application had been submitted for a zone change for the property. She went on to say that she had found out about it when someone had approached in Town asking her if she knew that Ayotte Brothers was trying to change the zone of the property.

Chairman Gannuscio asked Ms. Rodriguez what type of application had been received. Ms. Rodriguez replied that it was a zone change and site plan review application. Mr. Gannuscio stated that he would not consider the application without a public hearing.

Chairman Gannuscio asked the Nowak's if they had signed the application. Ms. Nowak replied that it was her signature, but that she had been handed a folded blank sheet of paper to sign and that she had thought that it was the new lease.

The discussion continued and Chairman Gannuscio reiterated that nothing would take place regarding the application without a public hearing occurring.

Chairman Gannuscio moved to accept the zone change application of Wilson M. Alford, Jr., P.E. & L.S. for the property located at 288 North Street to change the zone from Residence A and Residence B to Industrial 2 and to schedule it for a public hearing on November 8, 2010. Mr. Zimnoch seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

BILLS AND CORRESPONDENCE:

Chairman Gannuscio stated that he had received an invoice from W.B. Mason in the amount of \$174.67 for recording and secretarial supplies. He then moved to approve the W.B. Mason invoice in the amount of \$174.67. Mr. Brown seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Chairman Gannuscio stated that he had received an invoice from Mr. O’Leary for his retainer for July/August, 2010 in the amount of \$3,333.00. He then moved to approve Mr. O’Leary’s invoice in the amount of \$3,333.00. Ms. Ramsay seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

NEW BUSINESS:

c. Informal discussion regarding the home occupation at 60 Spring Street.

Chairman Gannuscio asked the Recording Secretary to carry the discussion over to the October meeting, since the two gentlemen from 60 Spring Street had already left the meeting.

Ms. Rodriguez asked if anyone had received an application for 60 Spring Street. No one had received an application.

Chairman Gannuscio asked Ms. Rodriguez if she had anything else to discuss. Ms. Rodriguez stated that she had received a site plan approval extension application for 492 Spring Street.

Chairman Gannuscio moved to schedule a review of the site plan approval extension application of Mohmoud Hussein for the property located at 492 Spring Street on October 12, 2010. Mr. Zimnoch seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Ms. Rodriguez stated that the Town had been approached by Babylon about modifying their Department of Environmental Protection (DEP) permit to include municipal solid waste. She went on to say that she had taken a look at the original Town approval and that in a number of places it specifically talked about municipal solid waste not being handled at the site. Ms. Rodriguez stated that she had given the information to Scott Chadwick, the Town Attorney, so that he could draft something up to the DEP regarding the Town’s rights as well as the fact that the Planning and Zoning Commission should have some input in the process. The discussion continued briefly

Chairman Gannuscio stated that there had been a couple of ideas being considered regarding who was going to be handling the enforcement of the Blight Ordinance and that the Building Office was being considered. Ms. Rodriguez commented that there were a lot of things that she did in the Office that did not fall under zoning enforcement or

wetland enforcement. Chairman Gannuscio pointed out that blight was an ordinance, not a zoning regulation and that it should not be enforced by the Town's already overtaxed staff in the Building Office.

Chairman Gannuscio moved to adjourn the meeting. Ms. Ramsay seconded the motion. All were in favor. The vote was 5 – 0, the meeting was adjourned at 10:00 pm.

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.